

PLANNING COMMISSION MINUTES

July 17, 2007

7:00 P.M.

Present: Chairman Clark Jenkins, Vice-Chairman Tom Smith, Beth Holbrook, Michael Allen, City Attorney Russell Mahan, City Engineer Paul Rowland, Planning Director Aric Jensen, and Recording Secretary Connie Feil.

Absent: City Council Representative Barbara Holt, Dave Badham, and Ray Keller.

Clark Jenkins welcomed all those present and had all Commission Members introduce themselves.

Michael Allen made a motion to approve the minutes for June 19, 2007 as written. Tom Smith seconded the motion and voting was unanimous. Clark Jenkins abstained from voting, he was not present at the meeting.

1. Consider final site plan approval for IHC Commercial addition located at 390 N. Main, GSBS Architects, applicant.

Jeff Newman and Brenda Roberts, representing IHC, were present. Marilyn Keal, project manager, was also present. Aric Jensen explained that GSBS Architects, representing Intermountain Health Care (IHC), is requesting commercial site plan approval for an addition to the existing IHC building located at 390 North Main Street. The Planning Commission reviewed the plans previously this year at the May 15th and June 5th meetings. The only significant change since preliminary review is the location and construction of the storm drain system.

The parking for this addition will be located on the south side of 300 North on an adjacent site also owned by IHC. The Ordinance requires that all off-street parking be located on site, however, the Downtown Zone allows alternative parking patterns. The revised drainage plan slightly encroaches on the adjoining property to the south, and so one of the redlines is to shift the parking area approximately 1-2 feet to the east, or to get permission from the adjoining property owner.

Paul Rowland explained that the detention basin is designed to have the water flow down into the basin and then drain into the existing system in the parking lot to the west. The emergency overflow will drain into the creek.

The Planning Commission previously reviewed the proposed building elevations and construction materials, which essentially call for a steel and glass style addition to the existing structure. The Commission had concerns about glare, compatibility with surrounding downtown area, and massing. The applicant agreed to increase vertical landscaping (trees and shrubs) in front of the addition to address these concerns.

There is also an existing duplex structure on the east side of the north parking lot (73 E and 75 E 300 North) which will be torn down and replaced with landscaping as part of this project.

Staff recommends final commercial site plan approval for IHC based on the building elevations submitted during preliminary site plan review and with the conditions that all redline corrections be made and with an increase in vertical landscaping in front of the new addition.

Tom Smith made a motion to recommend to the City Council final commercial site plan approval for IHC located at 390 N. Main as presented. Beth Holbrook seconded the motion and voting was unanimous in favor.

2. PUBLIC HEARING-Consider granting a variance to allow a 16' 4" front yard setback for a cover on an existing deck which does not meet front yard setbacks located at 1123 S. 800 E., Jonathan Corley, applicant.

Jonathan Corley, applicant, was present. Aric Jensen explained that Mr. Corley, is requesting a variance from the front yard setback requirements of the R-4 zone in order to construct a roof over an existing deck. At the time the home was constructed, the minimum front yard setback was only 15 feet. The aerial photos show that several of the surrounding homes are located between 15 and 20 feet of the front property line. The attached deck is located approximately 8 to 10 feet above the ground and is considered part of the dwelling structure. This lot also qualifies for the automatic 20 foot front yard setback because of the steep slope to the east.

The following is a conforming copy of Utah Code 10-9a-702, which outlines the duties of the appeal authority in relation to variances (underlining added to indicate necessary findings for approval):

10-9a-702. Variances.

- (1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.
- (2) (a) The appeal authority may grant a variance only if:
 - (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (v) the spirit of the land use ordinance is observed and substantial justice done.
- (b) (i) In determining whether or not enforcement of the land use ordinance would

cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:

(A) is located on or associated with the property for which the variance is sought; and
(B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:

(i) relate to the hardship complained of; and

(ii) deprive the property of privileges granted to other properties in the same zone.

(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(4) Variances run with the land.

(5) The appeal authority may not grant a use variance.

(6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:

(a) mitigate any harmful affects of the variance; or

(b) serve the purpose of the standard or requirement that is waived or modified.

In regards to Section 10-9a-707 (2)(a)(i - v), Staff's opinion is that the petitioner has shown that he meets all of the necessary criteria such that the Commission may grant a variance. First, literal enforcement of the ordinance would create an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance, i.e., The existing home and attached deck were constructed according to the setbacks in place at the time of construction, and allowing the homeowner to cover all but 4 feet of the deck is an extraordinary hardship that could be avoided with the granting of a variance.

Second, there are special circumstances which apply to this property that do not apply to all other properties in the neighborhood; specifically, this small section of the neighborhood was developed during a time that the City Ordinances allowed a 15-foot front yard setback, and the lot has an extremely irregular shape and building area due to the cul-de-sac and steeply sloping yard.

Third, the spirit of the Ordinance is upheld and substantial justice is done by allowing the applicant to make use of the limited buildable area on the property.

Fourth, this is not contrary to the general plan which calls for single family development and related accessory structures.

Lastly, in regards to Section 10-9a-707 (2)(b - c), the hardship is located on the property and is

the result of circumstances peculiar to the property.

Single family permits are normally reviewed and approved by the Bountiful City Building Department, and so the Commission is not approving the actual permit or site plan, but only a variance or variances from certain provisions of the Zoning Ordinance based on the site plan submitted. The Planning Commission may vote to approve the request in its entirety, to approve the request with modifications, continue the item for further discussion, or to deny the request depending on its findings.

Staff recommends approving the variance from the Land-Use Ordinance regarding front yard setback as shown on the proposed site plan, with the findings listed in the staff report.

The public hearing was opened for all those with comments or concerns. The public hearing was closed without comments.

There was a brief discussion in regards to the new roof line, which will follow the existing roof line.

Tom Smith made a motion to grant the variance to cover an existing deck located within a required minimum front yard setback as proposed with the findings listed in the staff report. Beth Holbrook seconded the motion and voting was unanimous in favor.

3. Planning Director's report.

Aric Jenson mentioned that he will be out of town until the evening of July 30, 2007. If anyone has any questions, you may call the office and speak with Connie.

Paul Rowland mentioned that on August 7th there will be a Planning Commission meeting and City Council meeting held the same night.

Meeting was adjourned at 7:17 P.M.